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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/961,335 | 09/25/2001 | Tony Brown | 05788.0182-00000 | 5754 |

7590 12/04/2002

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EXAMINER

WEBB, BRIAN SCOTT

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2839

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,335

Applicant(s)

BROWN ET AL.

Examiner

Brian S. Webb

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The disclosure is objected to because of the following informalities: The specification is lacking appropriate section headings and page numbering.

Appropriate correction is required.

3. Claims 11 and 12 are objected to because of the following informalities: they state the limitation "said fluid stopper" in line 2. There is insufficient antecedent basis for this limitation in the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Polle (US 5,698,615).

Polle discloses, in figures 1-11, an optical fiber cable comprising:

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- a longitudinal cavity (Figure 6, SH2)
- said cavity being a tubular cavity with an inside diameter of less than 1.7 mm (inherent in fiber optic buffer tubes) and formed of plastic (column 13, lines 53-55)
- a second tubular cavity (MA2) around said cavity
- an optical fiber (LW) in said cavity
- a mixture of powders
- a first fraction of a water-mediated expanding powder
- a second fraction of an inert powder with a preset particle size
- said preset particle size being less than 40 μm (column 3, lines 45-48)
- said water-mediated expanding powder size being less than 80 μm (column 12, line 48)
- said inert powder being talc (column 3, lines 54-55)
- said water-mediated expanding powder being a poly (sodium acrylate) (column 12, lines 47-48)
- said water-mediated expanding powder being 40%-80% by weight of said mixture (column 17, lines 28-40)
- water penetration limited to less than three meters from point of ingress in 24 hours (column 16, lines 55-59)
- an increase in attenuation in said optical fiber being less than 0.02 dB/km (column 17, lines 1-2)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polle (US 5,698,615).

Polle discloses the limitations of claims 1-10 and 12 as shown above. Polle fails to disclose a tube being made of a mixture of ethylene/vinyl acetate and a fluid stopper comprised of a polysiloxane.

Official notice is taken that tubes being made of a mixture of ethylene/vinyl acetate and polysiloxane fluid blockers are well known in the art of optical fiber cables. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use tubes made of a mixture of ethylene/vinyl acetate and polysiloxane fluid blockers with the optical fiber cable disclosed by Polle. The motivation being that ethylene/vinyl acetates are a plastic as disclosed by Polle and polysiloxanes are art recognized equivalents to the polyacrylic acid sodium salt fluid stoppers disclosed by Polle.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gaillard (US 5,751,880) discloses an optical fiber cable with a

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water blocking filler and a tube having an inner diameter of 1.5 mm. Bringuier et al (US 6,304,701) discloses an optical fiber cable with a water blocking filler and a tube made from ethylene/vinyl acetate polymers (column 5, lines 27-44). Marciano-Agostinelli et al (US 5,049,593) and Polle (US 5,335,302) both disclose an optical fiber cable with a mixed water blocking filler having both fluid stopping powders and inert powders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian S. Webb whose telephone number is (703) 308-6080. The examiner can normally be reached on 7: 30-6, Mon - Thurs.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Field can be reached on (703) 308-2710. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



BSW

November 27, 2002



LYNN FIELD
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